



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/169185

PRELIMINARY RECITALS

Pursuant to a petition filed September 30, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on October 27, 2015, at Oshkosh, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$100 in Qualified Medicare Beneficiary (QMB) benefits for the period of May 1, 2014 to January 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jeanie Ortiz

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. During the overpayment period the petitioner (CARES # [REDACTED]) was a resident of Winnebago County. She was the only person in her household. The petitioner has since moved out of state.

2. On March 19, 2014 the agency sent the petitioner a notice stating that she must report in 10 days if her income changes.
3. In April 2014 the petitioner's income increased above 130% of the FPL. The petitioner was also receiving FoodShare (FS) benefits. The petitioner never reported this increase in income to the agency.
4. The petitioner's monthly gross income from May 1, 2014 to January 31, 2015 was over the QMB income limit. The petitioner continued to receive QMB benefits during these months.
5. The petitioner would have been eligible for MAPP coverage with a premium from May 1, 2014 to January 31, 2015. The total amount of monthly premiums that would have been due for MAPP benefits during the overpayment period is \$100.
6. The agency sent the petitioner a notice of medical overpayment, and on October 5, 2015 the Division of Hearings and Appeals timely received the petitioner's Request for Fair Hearing.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Pursuant to this grant of authority, the department's MA Handbook, Appendix 22.2.1.1, provides that counties are to initiate recovery of MA overpayments caused by:

1. Misstatement or omission of facts by a member, or any person responsible for giving information on the member's behalf, at a Medicaid application or review.

or

2. Failure on the part of the member, or any person responsible for giving information on the member's behalf, to report changes in financial (income, assets, expenses, etc.) or non-financial information that affects eligibility, premium, patient liability or cost share amount.

The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

The petitioner agrees that she failed to report her increased income. She maintains that she did not do this on purpose. I agree that it was most likely unintentional. However, the agency must establish and collect overpayments even when the overpayment is caused by client error. I note that the agency correctly calculated the benefits that the petitioner would have been eligible to receive, and reduced the overpayment accordingly. The petitioner does not dispute the figures used or overall calculation of the overpayment.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$100 in Qualified Medicare Beneficiary (QMB) benefits for the period of May 1, 2014 to January 31, 2015.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

...

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of November, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 17, 2015.

Winnebago County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability